Center for Immigration Studies

Backgrounder

January 2004

Promise Unfulfilled

Why Didn't Collective Bargaining Transform California's Farm Labor Market?

By Philip L. Martin

California has the most pro-worker and pro-union labor relations law in the United States, and Cesar Chavez and the United Farm Workers (UFW) were expected to use it to transform farm work from a job to a career. Instead, unauthorized immigration increased the supply of workers, and farm labor contractors organized them into crews that unions found hard to organize. Instead of giving unions a second wind, legalization in 1986 accelerated the vicious spiral of more workers, more labor contractors, and declining farm wages and benefits, encouraging workers with other U.S. job options to find nonfarm jobs. The revolving door that introduces rural Mexicans to the U.S. labor market turned ever faster in the 1980s and 1990s, and the unionized share of the workforce fell while the unauthorized share rose.

The Promise of La Causa

In March 1966, as Cesar Chavez and a small band of marchers neared Sacramento for an Easter Sunday rally in support of a contract for grape pickers, Schenley Industries, a conglomerate that incidentally owned table grape farms in California's Central Valley, agreed to raise grape picker wages by 40 percent, from $1.25 to $1.75 an hour plus a bonus, enabling most to earn twice the minimum wage. With its first contract in hand, the organization that was to become the United Farm Workers union wrote to other grape growers, asking for contracts or elections to allow workers to decide if they wanted to be represented by unions. Grape growers did not respond, and the UFW launched one of the most successful union-led boycotts in U.S. history. "La Causa," the grape boycott to get growers to recognize the UFW, prompted one in eight Americans to avoid grapes, led to a 24 percent drop in per capita grape consumption, and eventually persuaded growers to recognize the UFW and agree to substantial wage increases.

Cesar Chavez was hailed on the cover of Time magazine July 4, 1969, as the Latino Martin Luther King, the leader who was going to use a union to win wage increases and respect for Hispanic workers. Less than a year later, in April 1970, the first of dozens of grape growers signed contracts with the UFW that raised wages by 40 percent. Collective bargaining promised to shift the locus of power in the seasonal farm labor market from growers to the UFW, which planned to use union-run hiring halls and organize workers into crews and send them to farms as needed. The UFW also had an ambitious socio-political agenda, including educating and protecting farmworkers by having them help to negotiate agreements with growers that regulated mechanization and pesticides.

The 1970s were a heady time for the UFW. Farm wages rose relative to manufacturing wages, from less than 50 percent of manufacturing wages in 1965 to almost 60 percent of manufacturing wages in the late 1970s. UFW-called boycotts of lettuce and Gallo wines that were eventually settled with contracts and higher wages convinced many growers that their farmworkers would soon be represented by unions (See Figure 1).

Despite setbacks that included growers signing sweetheart contracts with the Teamsters to avoid the UFW, Chavez was able to organize many of the grape and vegetable workers in California, prompting predictions that the UFW would soon be among the largest U.S. unions, since most of the almost three million hired farmworkers in the United States were assumed to be eager to join a union that could win substantial wage increases. The UFW's crowning moment

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This Backgrounder is adapted from Philip L. Martin's new book, Promise Unfulfilled: Unions, Immigration, and Farm Workers (Cornell University Press). *Mr. Martin is a professor of Agricultural and Resource Economics at the University of California, Davis.*

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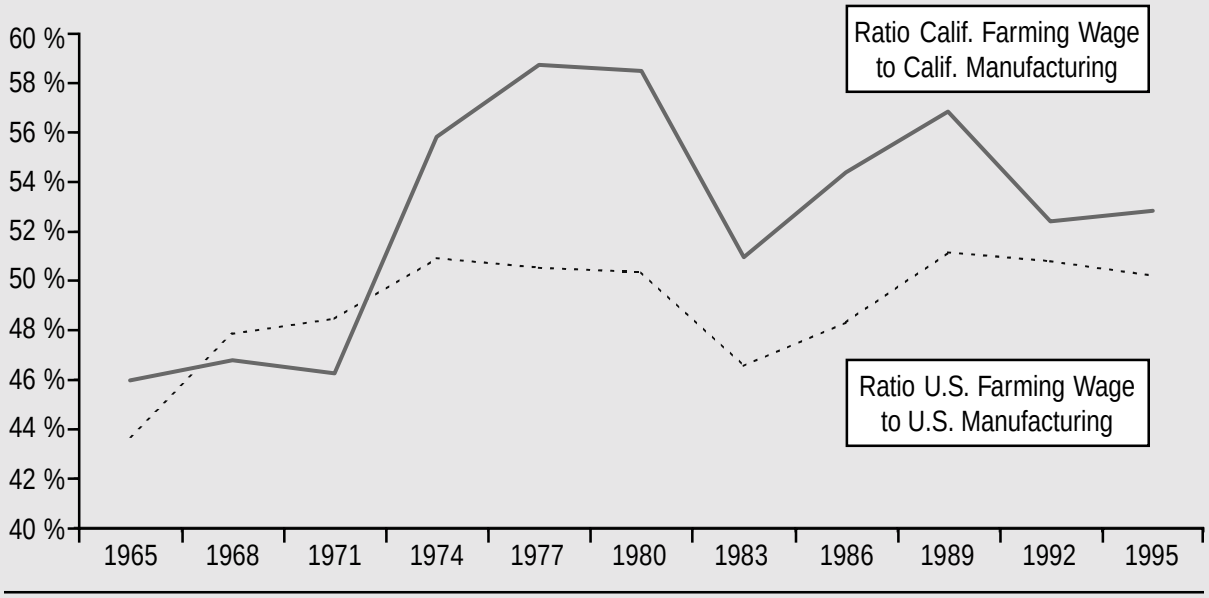
Figure 1. Ratio of U.S. and California Farm to Manufacturing Hourly Earnings, 1965-1995



Source: U.S. Dept. of Labor, U.S. Bureau of Labor Statistics, and U.S. Dept. of Agriculture, Nat. Agricultural Statistics Service

came in June 1975, when Gov. Jerry Brown signed into law the Agricultural Labor Relations Act (ALRA), which gave California farmworkers the right to form or join unions and bargain collectively with growers, the same right that most U.S. nonfarm private sector workers achieved with the 1935 National Labor Relations Act. Brown called the ALRA "The greatest accomplishment of my administration."

The ALRA and UFW were expected to usher in a new era for farm labor, at least in the factories in the fields that hired hundreds of seasonal workers to harvest fruits and vegetables. There were an average of five elections a day on California farms during the 1975 harvest, and the UFW won the right to represent farmworkers on 55 percent of the 400+ farms that had elections; the Teamsters won on another third of the farms (See Figure 2).

The contracts negotiated by the UFW and the Teamsters raised wages dramatically, often by 30 to 50 percent, and provided farmworkers for the first time with fringe benefits such as health insurance and pensions. In addition, unemployment insurance was extended to all farmworkers under UFW pressure in 1978, giving seasonal workers some income in the off season. Most Americans had favorable views of Cesar Chavez and the UFW, seeing their efforts to uplift farmworkers as a long overdue erasure of "grapes of wrath" and "harvest of shame" images of migrant and seasonal workers. However, unauthorized migration was rising: apprehensions doubled between 1972 and 1977 to one million, and then rose another 30 percent by 1983.

Pyrrhic Victories

The UFW's first vegetable contracts expired in January 1979, when the lettuce harvest was in California's Imperial Valley, which borders Mexico in southeastern California. Acting like a traditional union in its negotiations with a group of 26 growers, the UFW demanded a 42 percent three-year wage increase for entry-level workers, plus additional fringe benefits that, growers estimated, would have increased their labor costs by over 100 percent. Growers instead offered to increase wages by seven percent a year, as recommended under President Jimmy Carter's efforts to restrain inflation after oil prices rose with turmoil in Iran.

The UFW called a strike in support of its demands, and posted "wet patrols" on the U.S.-Mexico border to prevent unauthorized Mexicans from replacing strikers. The UFW was only partially successful: Chavez complained that "employers go to Mexico and have unlimited, unrestricted use of illegal alien strikebreakers to break the strike."[1] However, in August 1979, some of the vegetable growers agreed to "record contracts" that raised farmworker wages as the UFW had demanded and improved benefits. The UFW charged that the growers that did not sign new contracts had failed to bargain in good faith as required by the ALRA, and the state agency administering the ALRA agreed, ordering them to pay the same wages and benefits that the UFW had won with other growers under the law's unique make-whole remedy aimed at helping to level the playing field between growers and workers. For one grower alone, make-whole wages and benefits were estimated to be $15 to $20 million, that is, the employer would have paid this much more to workers if he had bargained lawfully.

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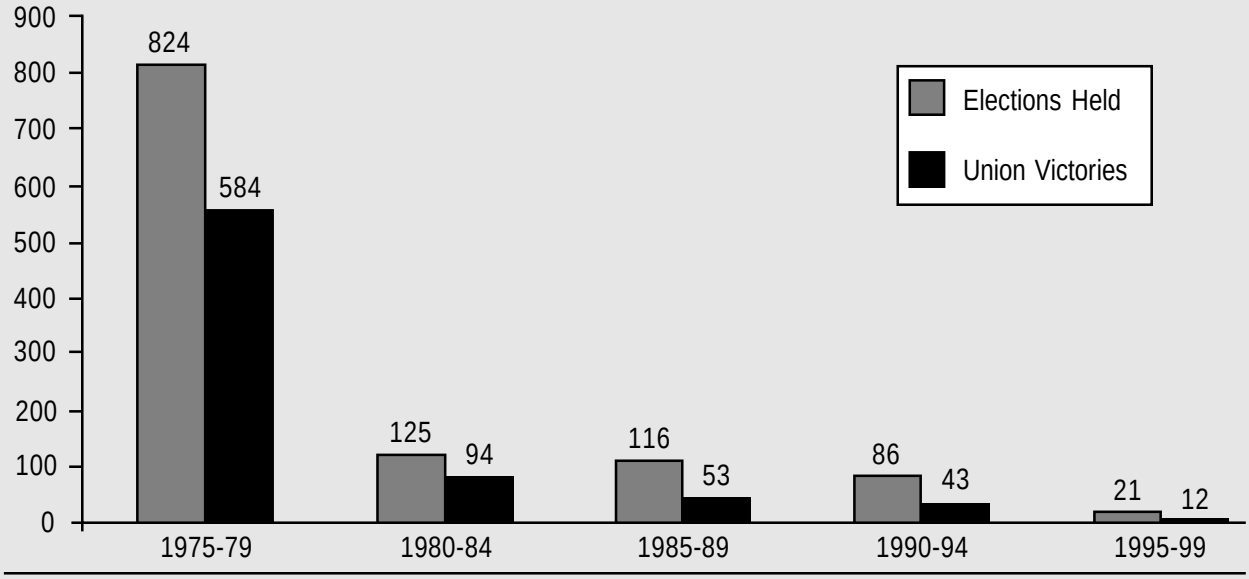
Figure 2. Elections Held and Union Victories, 1975-99



Source: California Agricultural Labor Relations Board (ALRB)
Note: There were 1,172 elections and 786 certified union victories between 1975 and 1999.

Cesar Chavez and the UFW became major players in California agriculture and politics in the early 1980s. The UFW, with 40,000 to 50,000 mostly Mexican-American and Mexican immigrant members, had a political action committee whose expenditures for statewide candidates were second only to the doctors' PAC in 1982. But the writing was on the wall for a major loss of UFW power. Several long-time supporters left the UFW and accused Chavez of losing touch with newly-arrived farmworkers, many of whom did not appreciate what Chavez and the UFW had done. Mexico's peso was devalued in 1982-83, and the number of Mexicans apprehended by the Border Patrol rose 30 percent. Republican governors replaced the staff of the agency administering the ALRA, and the courts overturned many of the agency's orders requiring growers to pay make-whole wages. Finally, many of the conglomerates most vulnerable to UFW boycotts that bought farmland during the inflationary 1970s quit farming, and were replaced by farmers determined to keep labor costs low.

The UFW went on the defensive, trying to retain contracts in a changed labor and political environment. UFW-called strikes in the early 1980s were frequently broken by farm labor contractors (FLCs) who hired recently arrived and often unauthorized workers, and FLCs gained market share as more farmers decided to use them to obtain workers rather than to hire workers directly. FLCs were often more than just employers and, by offering housing, rides to work, and sometimes loans to the workers they hired to repay smugglers, they ensured that there were no pro-union workers in the crews they brought to farms. Statewide data highlight the declining share of workers hired directly by farmers, and the rising share of workers brought to farms by FLCs and other farm services employers (See Figure 3).

Citrus harvesting in Ventura County, north of Los Angeles illustrates the labor market dynamics that eventually undermined the UFW. Cooperatives are common in agriculture to lower the cost of buying inputs like fertilizers, and to market commodities; Sunkist, for example, is a co-op of 5,000 citrus growers. In Ventura County, there were also labor co-ops to recruit and deploy seasonal citrus harvesting crews, which primarily consisted of Braceros housed in camps of 1,000 or more between 1942 and 1964. The mid-1960s were a "time of transition" in Ventura county, as growers adapted to a non-Bracero workforce by reducing quality standards, introducing a piece-rate wage system that aimed to standardize worker earnings despite the varying weight, yield, and size of the lemons picked, and increasing worker productivity with new clippers, lighter synthetic picking bags, and aluminum ladders.

The largest of the labor co-ops was the Coastal Growers Association, founded in 1961.[2] After the Bracero program ended, CGA developed modern personnel practices to recruit, reward, and encourage the best pickers to return year after year, and the result was a win-win situation. CGA pickers saw their average piece rate earnings rise from $1.77 an hour in 1965 to $5.63 an hour in 1978, and their average annual earnings rose from $267 for 151 hours of work in 1965 to $3,430 in 1978 for 609 hours.[3] The number of pickers employed at CGA fell from 8,517 in 1965 to 1,292 in 1978, and average worker productivity rose from 3.4 boxes an hour in 1965,

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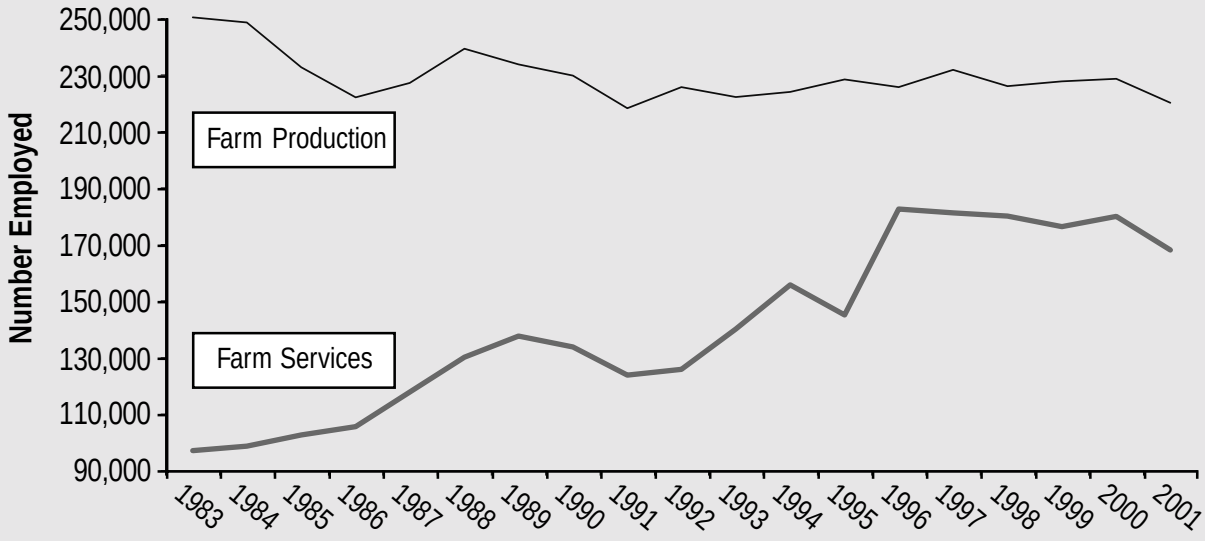
Figure 3. California Farm Production and Services Employment, 1983-2001



Source: Employment Development Department, State of California
Note: Average employment is monthly employment summed and divided by 12 months.

to 8.4 boxes an hour in 1978. Direct picking costs for growers rose slower than the rate of inflation, from $0.53 to $0.66 a box, as CGA hired fewer but more productive harvesters.[4]

CGA workers voted 897-42 to have the UFW represent them in March 1978, and a three-year agreement raised piece rate wages a further 22 percent. Growers had little choice but to turn to the unionized co-ops for workers, since the UFW represented about 70 percent of Ventura citrus harvesters.[5] However growers could withdraw from the labor co-ops and hire workers via FLCs and, as rising wages and benefits pushed up picking costs, some did. The co-ops told the UFW to organize the FLC workers or moderate its wage demands, but instead the UFW called a strike against the co-ops in 1982 in support of a demand for higher wages. More growers left the co-ops, and most soon disbanded. Ventura citrus harvesting was mostly unionized for only about five years.

Did the UFW overreach in Ventura County, or did illegal immigration undermine its demands for higher wages? During the heyday of the unionized labor co-ops, the typical Ventura county citrus harvester was a Mexican-American or legal Mexican immigrant who spent six to eight months in the United States doing farm work and four to six months in Mexico. Mexican-Americans and green-card commuters began to age out of harvesting jobs in the late 1970s, and some became FLCs who knew that recently arrived young men did not care much about the benefits in UFW contracts that were pushing up the co-ops' labor costs. The FLCs could offer the same piece-rate wages to pickers as the co-ops, but pick lemons and oranges cheaper because of their lower overhead costs, which fell as FLCs began to compete with one another.

The UFW and the co-ops were replaced by FLCs employing mostly unauthorized and non-union workers. This replacement process was not one in which there were separate queues for Mexican-Americans, legal immigrants, and unauthorized workers seeking jobs. Instead, U.S. workers were displaced in a competition between the unionized co-ops and FLCs that the co-ops lost. As a result, the harvest workforce went from mostly Mexican-Americans and legal immigrants to mostly unauthorized workers.

Immigration Reform and its Aftermath

The UFW was well aware that rising illegal immigration was a threat, and in 1981 testified in favor of employer sanctions and ample funds to enforce them.[6] When Congress began to debate immigration reforms in the early 1980s, there was relatively little testimony on agriculture, where 15 to 20 percent of unauthorized workers were believed to be employed. The UFW was engaged in a new grape boycott, the "wrath of grapes" direct-mail campaign, that urged consumers not to buy grapes because they contained traces of "dangerous pesticides," while California growers were more concerned about lingering union battles than the debate in Washington over employer sanctions.

As Congress got more serious about immigration reform, California farmers reacted, forming the Farm Labor Alliance to demand a separate guestworker program for western agriculture. Most growers did not have the

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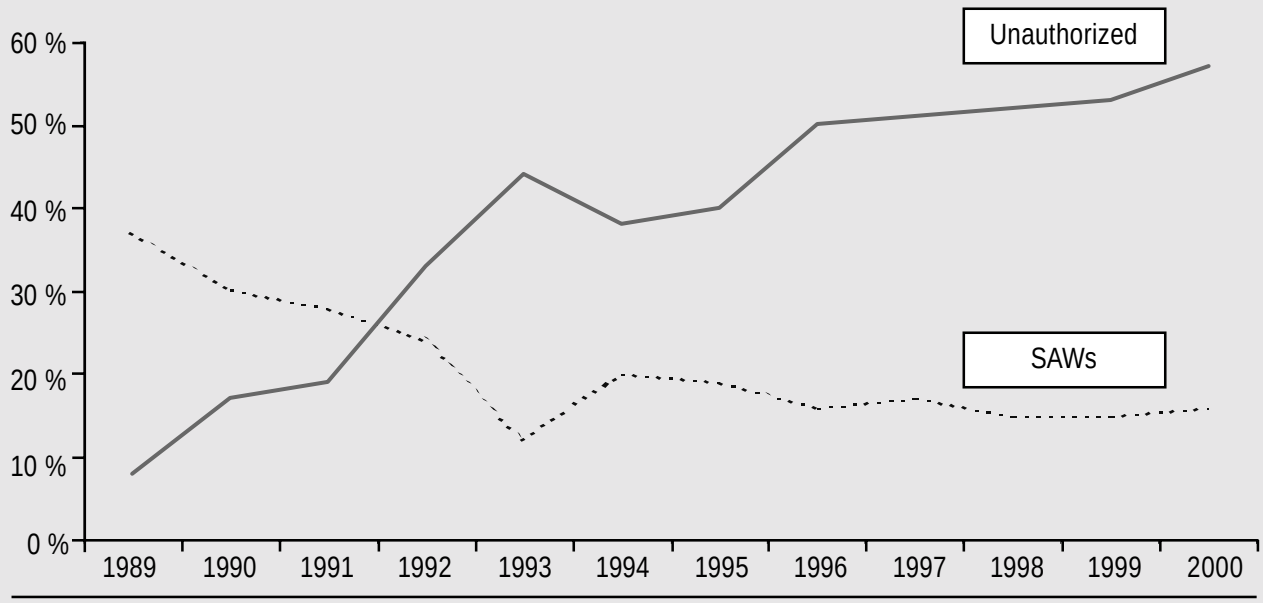
Figure 4. SAWs and Unauthorized Farm Workers
As a Percentage of Total Crop Workers, 1989-2000



Source: U.S. Dept. of Labor, National Agricultural Workers Survey (NAWS)

on-farm housing required to participate in the H-2 guestworker program used by eastern growers to employ Jamaican sugar cane and apple harvesters. Furthermore, California farmers feared that, if they tried to recruit U.S. workers as required before H-2 workers could arrive, they might be forced to hire pro-UFW workers. The FLA won, in what the New York Times called one of the top 10 political stories of 1984, the so-called Panetta-Morrison guestworker program that did not require employers to provide on-farm housing, and did not require government-supervised recruitment of U.S. workers before hiring guestworkers. In 1985, then-Senator (later California Governor) Pete Wilson (R-Calif.) persuaded the Senate to approve a similar guestworker program, prompting Senator Alan Simpson (R-Wyo.) to decry these programs as efforts to merely "legalize the status quo of illegal labor in agriculture."[7]

Then-Representative (now Senator) Charles Schumer (D-N.Y.) brokered the three-part farm labor compromise in the summer of 1986 that allowed the Immigration Reform and Control Act of 1986 to become law. First, the H-2 program was made more employer-friendly and revised into the H-2A program. Second, the Special Agricultural Worker (SAW) legalization program gave legal status to unauthorized workers who did at least 90 days of work on crop farms in 1985-86.[8] Third, if SAWs quickly left agriculture and there were farm labor shortages, Replenishment Agricultural Workers (RAWs) could be admitted and, if they did sufficient farm work, they could earn a legal immigrant status.[9]

The battle for farmworker loyalty turned from the fields to immigration offices, as the UFW and farmers established competing Qualified Designated Entities to help unauthorized farmworkers become legal immigrants. The farmers' QDE was one of the largest, helping over 50,000 foreigners gain legal status, but most of the 1.3 million SAW applicants applied with the help of private attorneys and consultants. The UFW nonetheless hoped that the now-legal workers would feel confident to demand higher wages and the restoration of benefits that were dropped in the 1980s. However, illegal immigration surged, as Mexicans moved to the United States hoping for legal status. The result, according to the federal Commission on Agricultural Workers, was "a general oversupply of farm labor nationwide...[which has] generally interfered with workers' ability to organize. With fraudulent documents easily available, employer sanctions have been largely ineffective."[10]

SAWs who were legitimate farmworkers found themselves in a position similar to Mexican Americans in the 1950s, during the height of the Bracero program. If they stayed in the fields, they faced wages that were depressed by the continued arrival of newcomers. Many left for the nonfarm labor market, where there was less wage-depressing competition from new arrivals — the percentage of SAWs among crop workers dropped in the 1990s as the percentage of unauthorized workers rose. Newspapers in the early 1990s documented poor conditions for farmworkers in series entitled "Fields of Pain" and the "New Harvest of Shame"[11] (See Figure 4).

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The UFW had no table grape contracts when Cesar Chavez died on April 23, 1993, but he soon became an icon. President Clinton awarded Chavez a posthumous Medal of Freedom in 1994 and said "We can be proud of his enormous accomplishments and in the dignity and comfort he brought to the lives of so many of our country's least powerful and most dispossessed workers." Chavez was inducted into the AFL-CIO's Labor Hall of Fame and several states, including California, made Chavez's March 31st birthday a holiday. Thousands of parks, streets, and schools across the United States were renamed in honor of Chavez.

Chavez was replaced as UFW president by his son-in-law, who announced that the UFW would repeat its historic Delano-to-Sacramento march and once again organize farmworkers. The UFW tested its new organizing strategy in the California strawberry industry, aiming to organize the 20,000 to 25,000 pickers employed for six months or more picking berries worth about $600 million to farmers, and costing consumers about $3 billion. Most strawberry pickers earned about five cents for picking a pint of berries, and the UFW launched a "five cents for fairness" campaign, promising workers it would seek to double their wages, and assuring the public that the cost of strawberries would rise only a nickel in the supermarket.[12]

The UFW targeted the largest employer of strawberry pickers, a subsidiary of Monsanto. With encouragement from leading Democratic politicians, Monsanto sold its strawberry farms to pro-union investors, who renamed them Coastal Berry. Even though AFL-CIO president John Sweeney called the UFW's strawberry campaign the most important union organizing drive in the United States in April 1997, a pioneering effort to organize low-wage Hispanic workers,[13] it took three elections and several years before the UFW won the right to represent 1,500 Coastal Berry workers. Today, the strawberry industry remains largely non-union, with fewer than 10 percent of pickers represented by unions.

Over the past two decades, the UFW changed its position on immigration, and became a leading voice inside the AFL-CIO in favor of ending employer sanctions and legalizing unauthorized foreigners. Labor organizer Bert Corona, who supported Chavez and the UFW during the 1970s and 1980s said: "I did have an important difference with Cesar. This involved his, and the union's position, on the need to apprehend and deport undocumented Mexican immigrants who were being used as scabs by the growers... [I] believed that organizing undocumented farmworkers was auxiliary to the union's efforts to organize the fields. We supported an open immigration policy, as far as Mexico was concerned."[14] The UFW adopted Corona's position and in 2000, when the AFL-CIO's Executive Council called for an end to employer sanctions enforcement and for the legalization of unauthorized foreigners, UFW President Arturo Rodriguez said "This is a way to help low-wage immigrant workers."[15]

Promise Unfulfilled

More than a quarter century after the enactment of the most pro-worker and pro-union labor relations law in the United States, there are fewer workers under union contract in California agriculture than before the ALRA was enacted, and farm wages and working conditions have slipped further behind the U.S. norms than they were in the 1960s and 1970s. There are four major reasons advanced for the failure of the ALRA and the UFW to transform the farm labor market: poor union leadership, state-level political changes, farm labor market changes, and rising illegal immigration.

The union leadership explanation acknowledges that Chavez was a charismatic leader who could articulate the hopes of farmworkers, but charges that Chavez and the UFW were unable to administer the contracts they negotiated, and that the UFW lost its credibility with workers when it stopped organizing newly-arrived migrants who had not heard of the UFW and assumed that a union simply meant another deduction from their paychecks, as it had at home. There were many problems with UFW contracts, as when UFW-run hiring halls could not deploy seasonal workers efficiently in a pre-computer era, and union-run health and pension plans sometimes failed to pay doctors and workers in a timely fashion, prompting dissatisfaction with the UFW among members.[16]

The political change explanation is that the ALRA was enacted and administered under pro-worker Democratic appointees between 1975 and 1982, then pro-grower Republicans between 1983 and 1998, Democrats between 1998 and 2003, and now a Republican governor again. This argument makes the success of unions in representing and winning benefits for farmworkers dependent on who is making appointments to the ALRB.[17]

The other two explanations for the failure of the ALRA and unions to transform the farm labor market are empirical. Unions were most successful dealing with the farming subsidiaries of nonfarm conglomerates, such as Shell Oil, Seven-Up, and Tenneco. After these conglomerates sold their farming operations in the 1980s, the threat of union boycotts diminished, and the growers who took over the land turned to labor contractors for workers. It proved very hard for unions to organize FLC workers, since FLCs know that if they develop a reputation for bringing pro-union crews to farms, farmers will select a different contractor.

The final explanation for the failure of the ALRA to transform the farm labor market is increased legal and illegal immigration. Two numbers tell the story. In 1987-88, when there were about six million adult men in rural

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Mexico, the United States legalized one million Mexican men under the SAW program. The fact that many of these men did not do the qualifying farm work but nonetheless became immigrants taught rural Mexicans that being an unauthorized worker in the United States can bring immigration benefits. This encouraged more rural Mexicans to migrate to the United States, as indicated by the rising number of apprehensions: 1.6 million during the 1960s, 8.3 million during the 1970s, 12 million during the 1980s, and 14 million during the 1990s. Rising illegal immigration facilitated the switch to FLCs, and made it hard for the UFW to negotiate contracts that raised wages.

The golden age for American farmworkers was between the late 1960s, after the Bracero program ended, and the early 1980s, before peso devaluations sent Mexicans streaming north. The ALRA was enacted in the middle of that golden age, and predictions made in 1975 did not anticipate the farm employer and immigration changes of the 1980s and 1990s. Until unauthorized immigration is reduced, farmworker unions will find it difficult to organize and negotiate higher wages for farmworkers, and the ALRA and unions will remain a promise unfulfilled in transforming the farm labor market.

Endnotes

[1] Chavez testimony before the U.S. Senate. 1979. Committee on Labor and Human Resources. Farmworker Collective Bargaining. p.5.

[2] The CGA is examined in Lloyd, Jack, Philip L. Martin and John Mamer. 1988. *The Ventura citrus labor market*. Berkeley: University of California, Division of Agriculture and Natural Resources, Giannini Foundation: Giannini information series 88-1.

[3] Mines and Anzaldua reported that a UFW-represented crew at CGA averaged $6.35 an hour in 1981, and a UFW-represented Limoneria crew averaged $6.50 an hour; the federal minimum wage in 1981 was $3.35 an hour. The CGA workers averaged $4,034 for 4.8 months, and the Limoneria crew $8,419 for 8.2 months in 1981 (p100). Mines, Richard and Ricardo Anzaldua. 1982. *New Migrants vs Old Migrants. Alternative Labor Market Structures in the California Citrus Industry.* UC San Diego. Center for U.S.-Mexican Studies.

[4] The total cost per box (18 bags or boxes = 1 bin) rose 73 percent, from $0.63 in 1965 to $1.09 in 1978, with the introduction of benefits that ranged from paid vacation to health insurance. The employment count is the number of W-2 statements issued.

[5] In 1980, Ventura County had 25,000 acres of lemons and 17,000 acres of oranges, as well as 17 citrus packing houses.

[6] Stephanie Bower, UFW Legislative Director, testifying September 30, 1981 said: "We therefore concur with the AFL-CIO's position that imposing sanctions on employers who hire illegal aliens would be a good vehicle for controlling the hiring of illegal aliens if the proposed legislation could be effectively enforced." Bower recommended a fine of $1,500 per worker per day, and added "we strongly urge that a large budget for staff and operations be allocated toward the enforcement" of sanctions. (p78). The Knowing Employment of Illegal Immigrants, Hearing before the U.S. Senate Subcommittee on Immigration and Refugee Policy, Serial J-97-61, September 30, 1981.

[7] Congressional Record, September 12, 1985, p. S11326.

[8] The SAW program had very easy legalization requirements because it was assumed that many unauthorized workers were employed by FLCs who did not keep records. After an individual asserted that he did at least 90 days of qualifying farm work, the burden of proof shifted to the INS to disprove the worker's claim. The INS was not prepared for the volume of applications–1.3 million instead of the 400,000 expected–or the significant fraud–at least half of the applicants did not do the qualifying farm work they claimed. Martin, Philip L. 1994. *Good intentions gone awry: IRCA and U.S. agriculture.* The Annals of the Academy Of Political and Social Science, Vol 534: 44-57. July.

[9] After doing at least 90 days of farm work a year for three years, the RAW could become a legal immigrant. There were no farm labor shortages, and the 1989-93 RAW program was allowed to expire without being used.

[10] Commission on Agricultural Workers Final Report. 1992, p. xxii.

[11] *Sacramento Bee*, December 8-11, 1991; *Boston Globe*, April 26, 1990.

[12] Fresh strawberries are picked directly into the plastic containers in which they are sold; most are picked in a 12-pint tray for piece rates of about $1.50 per tray, or $0.125 per pint. Farmers receive an average $0.40 to $0.50 a pint; pints of strawberries retail for an average $1.50 to $2 a pint.

[13] UFW: Health, Organizing, Chavez. 2003. Rural Migration News. July. Vol 9. No 3.

[14] Quoted in Rural Migration News, April 2001.

[15] Quoted in Steven Greenhouse, "Labor Urges Amnesty for Illegal Immigrants," *New York Times*, February 17, 2000. For more on the AFL-CIO change in position, see Vernon Briggs. 2003. Testimony before the Subcommittee on Immigration, Border Security, and International Claims of the House Judiciary Committee. October 30. www.house.govjudiciarybriggs 103003.pdf

[16] Barr, Evan. 1985. "Sour grapes: Cesar Chavez 20 years later." *The New Republic*, Vol. 193, November 25, p. 20. Bardake, Frank. 1993. "What Went Wrong with the UFW?" *The Nation*, reprinted in the *Sacramento Bee*, August 1, 1993, p F1, F6

[17] Majika, Linda, and Theo Majika. 1982. *Farmworkers, Agribusiness, and the State*. Philadelphia: Temple University Press. Schilling, Elizabeth. 1992. "The ALRB in the '90s–Do not disturb ... agency asleep." *California Journal*, March 1.

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Center for Immigration Studies
1522 K Street NW, Suite 820
Washington, DC 20005-1202
(202) 466-8185 • Fax (202) 466-8076
center@cis.org • www.cis.org